

Notice of Allowability

Application No.

10/645,756

Examiner

Stephen L. Rawlings, Ph.D.

Applicant(s)

MONAHAN ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 08 August 2007.
2. ☒ The allowed claim(s) is/are 1, 5-9, 11-21, 49, 50, 53, 54 and 56.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20070920.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Stephen L. Rawlings/
Stephen L. Rawlings, Ph.D.
Primary Examiner, Art Unit 1643

EXAMINER'S COMMENT

Inventorship

1. In view of the papers filed June 7, 2007, the inventorship in this nonprovisional application has been changed by the deletion of Karen Glatt and Shubhangi Kamatkar.

Response to the Declaration under 37 C.F.R. § 1.132

2. The declaration under 37 C.F.R. § 1.132 by John E. Monahan, Yan Chen, and Xumei Zhao, which was filed on June 7, 2007, is sufficient to overcome the rejection of claims 1, 2, 4-10, 16-21, and 49-54 under 35 U.S.C. 102(e), as being anticipated by U.S. Patent Application Publication No. 2003/0087270 A1, as set forth in section 17, beginning at page 20 of the Office action mailed December 7, 2006.

Examiner's Statement of Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance:

The declaration under 37 C.F.R. § 1.132 by John E. Monahan, Yan Chen, and Xumei Zhao has obviated the rejection of claims 1, 2, 4-10, 16-21, and 49-54 under 35 U.S.C. 102(e), as being anticipated by U.S. Patent Application Publication No. 2003/0087270 A1. Then, as indicated on the Interview Summary of August 2, 2007, which was mailed on August 22, 2007, it had been agreed that the subsequently filed amendment of August 8, 2007, would resolve the issues set forth in the Office action mailed December 7, 2006, but for the provisional obviousness-type double patenting rejection.

Therefore, as explained in the Interview Summary of September 20, 2007, the sole remaining issue identified after entry of the amendment filed August 8, 2007, was the provisional obviousness-type double patenting rejection of the present claims over claim 4 of the copending Application No. 11/510,530. As noted in the Interview Summary, Applicant filed on September 24, 2007, an amendment in the copending application, amending claim 4 so as to be directed to a method of assessing whether a patient is afflicted with cervical carcinoma, said method comprising comparing the level

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of an expression marker other than the M666 marker to which the instant claims are directed. Accordingly, the amendment to claim 4 of the copending application has resolved this last remaining issue, placing this application in condition for allowance.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Election/Restrictions

5. The restriction and election requirement separating the inventions of Groups I and II, as identified in the Office action mailed April 12, 2006, has been withdrawn; accordingly, claims directed to the inventions of Groups I and II have been rejoined.

Conclusion

6. Claims 1, 5-9, 11-21, 49, 50, 53, 54, and 56 have been allowed.

7. Claims 1, 5-9, 11-21, 49, 50, 53, 54, and 56 have been as claims 1-22, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is (571) 272-0836. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen L. Rawlings/
Stephen L. Rawlings, Ph.D.
Primary Examiner
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slr
September 26, 2007